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Honorable Timothy W. Dore
Chapter: 13
Hearing Date: January 4th 2021
Hearing Time: 9:30 a.m.

5 **Mailing Address:**
4375 Jutland Drive, Suite 200
6 P.O. Box 17933
San Diego, CA 92177-0933
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Facsimile: (619) 326-2430
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10 **UNITED STATES BANKRUPTCY COURT**
WESTERN DISTRICT OF WASHINGTON (SEATTLE)

11 In re
12 BILLIE JEAN HARRIS,
13 Debtor(s).
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Case No. 22-11028-TWD

Chapter 13

**DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR
AMERIQUEST MORTGAGE
SECURITIES INC., ASSET-BACKED
PASS-THROUGH CERTIFICATES,
SERIES 2004-R5 RESPONSE TO
OBJECTIONS TO CLAIM 3 (DKTs 34,
37 and 44)**

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21 Creditor, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage
22 Securities Inc., Asset-Backed Pass-Through Certificates, Series 2004-R5 (hereinafter "Deutsche Bank"),
23 creditor of the above-entitled Debtors (hereinafter "Debtor"), hereby submits its preliminary Response
24 ("Response") to the Debtor and Co-Debtor's Objections To Claim 3.

25 Deutsche Bank joins the Trustee's objection to all three objections to claim as they were not
26 noticed properly per the Local Bankruptcy Rules. Accordingly, all three matters need to be re-noticed
27 and those notices need to be served.

28 Substantively, Deutsche Bank objects to Debtor's Objection to Claim on the following grounds.

1 Debtor seeks to have Pre-Judgment Interest, Escrow Advances, Fees and Costs as well as Post-
2 Judgment Fees and Costs denied from being included in the Proof of Claim. However, Deutsche Bank's
3 claim is supported by loan documents that specifically allow Deutsche Bank to recover these amounts
4 from the Debtor. Indeed, the Deed of Trust attached to the Proof of Claim (pgs 38 through 52) include
5 provisions in paragraphs 1, 4, 9, 14, and 20 that provide that the Lender may charge interest, fees, costs,
6 taxes, assessments, liens, fines back to the Borrower. The fact that some of these expenses were not
7 included in a Judgment does not prevent Deutsche Bank from recovering them. Deutsche Bank can file
8 a Supplemental Judgment to recover these costs. In fact, the Judgment cited by Debtor and included in
9 the Proof of Claim at page 32 provides for post-Judgment Interest at page 33 paragraph 14. In addition,
10 the Judgment, paragraph 7 on page 35 of the Proof of Claim, provides that the "Judgment shall be
11 supplemented by Plaintiff, through Declaration of Counsel, to reflect the amount due with further notice
12 to Defendants." Debtor has not provided any evidence to show that these claims cannot be collected.
13 While Debtor alludes to the fees and costs not being included in the Judgment as evidence that the fees
14 and costs are not allowed by the court, there is no such language in the Judgment; rather, the language in
15 the Judgment appears to contradict this allegation. Accordingly, to the extent that the Court wants to
16 rule on the Objection at the hearing on January 4, 2023, Deutsche Bank requests that the Court overrule
17 the objection.

18 The two Objections filed by the Co-Debtor should be summarily overruled. The Co-Debtor
19 seeks the Claim be disallowed but supports this request with arguments that have been previously
20 considered by a Court. The *Rooker-Feldman* doctrine prevents the lower federal courts from exercising
21 jurisdiction over cases brought by "state-court losers" challenging "state-court judgments rendered
22 before the district court proceedings commenced." *Exxon Mobil Corp. v. Saudi Basic Industries*
23 *Corp.*, 544 U. S. 280, 284 (2005). Any challenge to the foreclosure was either argued or should have
24 been brought before the State Court prior to the Judgment being rendered. Accordingly, these
25 arguments cannot now be brought before the court. In addition, there is no evidence to support the
26 claims alleged in the Objection. Accordingly, Deutsche Bank requests that the Objections to Claim filed
27 by the Co-Debtor be overruled.

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2 **I. CONCLUSION**

3 Based on the foregoing, Deutsche Bank National Trust Company, as Trustee for Ameriquest
4 Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2004-R5 respectfully requests
5 this Court to overrule the three Objections to Claim of Deutsche Bank National Trust Company, as
6 Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2004-
7 R5; or at a minimum to require the parties to notice and serve the objections and notices properly such
8 that Creditor has an opportunity to respond; and for other relief as is just.

9
10 Respectfully submitted,

11 Dated: January 3, 2022

ALDRIDGE PITE, LLP

12
13 /s/ Jesse A.P. Baker
14 JESSE A.P. BAKER (WSBA# 36077)
15 Attorneys for Deutsche Bank National Trust
16 Company, as Trustee for Ameriquest Mortgage
17 Securities Inc., Asset-Backed Pass-Through
18 Certificates, Series 2004-R5
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1 UNITED STATES BANKRUPTCY COURT
2 WESTERN DISTRICT OF WASHINGTON – SEATTLE DIVISION
3 CERTIFICATE OF SERVICE BY MAIL

4 I, Lauren Timby, am employed by Aldridge Pite, LLP, and I am over the age of eighteen
5 (18) years, and not a party to the within action. My business address is 4375 Jutland Drive, Suite
6 200; P.O. Box 17933, San Diego, CA 92117-0933.

7 I served the attached Response to Debtor's Objection to Proof of Claim by placing a true
8 copy thereof in an envelope addressed to:

9 DEBTOR

10 (VIA U.S. MAIL)
11 Billie Jean Harris
12 34906 Military Road S
13 Auburn, WA 98001

14 DEBTOR(S) ATTORNEY
(VIA ELECTRONIC NOTICE)
Jason E. Anderson

15 TRUSTEE
(VIA ELECTRONIC NOTICE)
16 Jason Wilson-Aguilar

17 UNITED STATES TRUSTEE
(VIA ELECTRONIC NOTICE)
18 United States Trustee
19

20
21 which envelope was then sealed and postage fully prepaid thereon, and thereafter, on, January 3,
22 2023, deposited in the United States Mail at San Diego, California. There is regular delivery
23 service between the place of mailing and the place so addressed by the United States Mail.

24 I certify under penalty of perjury that the foregoing is true and correct.

25 Dated: 1/3/2023

/s/Lauren Timby
LAUREN TIMBY

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